

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TRUSTEES OF THE CONSTRUCTION)
INDUSTRY AND LABORERS HEALTH) Case No. 2:10-cv-00418-GMN-LRL
AND WELFARE TRUST, TRUSTEES OF)
THE CONSTRUCTION INDUSTRY AND)
LABORERS JOINT PENSION TRUST,)
TRUSTEES OF THE CONSTRUCTION)
INDUSTRY AND LABORERS VACATION)
TRUST, AND TRUSTEES OF THE)
SOUTHERN NEVADA LABORERS LOCAL)
872 TRAINING TRUST,)
Plaintiffs,)
vs.)
F.I.X., INC., *a Nevada corporation*,)
Defendant.)

Before the Court is Plaintiffs' Motion for Default Judgment Against Defendant F.I.X., INC., *a Nevada corporation* (Doc. No. 9). Defendant F.I.X., INC. was properly served on May 14, 2010, in accordance with Nevada Revised Statute § 14.030, by serving the Nevada Secretary of State with the Summons and Complaint (Doc. No. 5). Defendant F.I.X., INC.'s Answer to Plaintiffs' Complaint was due on June 4, 2010; however, Defendant F.I.X., INC. failed to file its Answer. The Clerk's Entry of Default Judgment against Defendant F.I.X., INC. was entered on July 20, 2010 (Doc. No. 7).

Plaintiff's Motion is made pursuant to Rule 55(b) of the Federal Rules of Civil Procedure. Plaintiffs bear the burden of proving entitlement to the sum sought in its Motion; whether to enter a judgment by default is a decision entrusted to the sound discretion of the district court. *See Bender Shipbuilding & Repair Co., Inc., v. Vessel DRIVE*

1 *OCEAN V*, 123 F.Supp 2d 1201, 1208 (S.D. Cal. 1998), aff'd, 221 F.3d 1348 (9th Cir. 2000).

2 The Court has considered the following factors: (1) the possibility of prejudice to
3 plaintiff, (2) the merits of plaintiff's substantive claim, (3) the sufficiency of the complaint,
4 (4) the sum of money at stake in the action; (5) the possibility of a dispute concerning the
5 material facts; (6) whether defendant's default was the product of excusable neglect, and
6 (7) the strong public policy favoring decisions on the merits. *See Eitel v. McCool*, 782 F.2d
7 1470, 1471 (9th Cir. 1986).

8 The Court having reviewed Plaintiffs' Motion, and good cause appearing therefore,
9 hereby makes the following Orders:

10 **IT IS HEREBY ORDERED** that Plaintiffs' Motion for Default Judgment is
11 **GRANTED**.

12 **IT IS FURTHER ORDERED** that Default Judgment is entered in favor of
13 Plaintiffs, TRUSTEES OF THE CONSTRUCTION INDUSTRY AND LABORERS
14 HEALTH AND WELFARE TRUST, TRUSTEES OF THE CONSTRUCTION
15 INDUSTRY AND LABORERS JOINT PENSION TRUST, TRUSTEES OF THE
16 CONSTRUCTION INDUSTRY AND LABORERS VACATION TRUST, AND
17 TRUSTEES OF THE SOUTHERN NEVADA LABORERS LOCAL 872 TRAINING
18 TRUST, and against Defendant, F.I.X., INC.

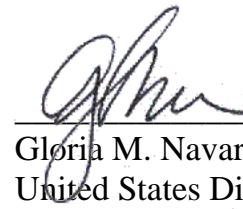
19 **IT IS FURTHER ORDERED** that Plaintiffs are awarded and Defendant is
20 ordered to pay to Plaintiffs (1) the sum of \$23,483.00 for delinquent contributions; (2) the
21 sum of \$4,912.00 for liquidated damages; and (3) the sum of \$4,912.00 in interest, for a
22 total sum due and owing from Defendant to Plaintiffs in the amount of \$33,307.00.

23 **IT IS FURTHER ORDERED** that Plaintiffs are awarded and Defendant is
24 ordered to pay to Plaintiffs, attorney's fees in an amount to be determined by this Court
25 after review of Plaintiffs' Motion for Attorney's Fees. Plaintiffs shall submit a Motion

1 for Attorney's Fees consistent with Local Civil Rule 54-16 with a reasonable itemization
2 and description of the work performed in this case **within fourteen (14) days of entry of**
3 **this Order.**

4 **IT IS FURTHER ORDERED** that Plaintiffs are awarded and Defendant is
5 ordered to pay to Plaintiffs recoverable costs in this action in an amount to be determined
6 by this Court after review of Plaintiffs' Bill of Costs. Plaintiffs shall submit a Bill of
7 Costs consistent with Local Civil Rule 54-1 within **ten (10) days of entry of this Order.**

8 DATED this 27th day of May, 2011.

9
10 

11 Gloria M. Navarro
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25